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Response under 37 C.F.R. 1.116
- Expedited Examining Procedure -
Examining Group 2878

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Ronald S. Cok

AMBIENT LIGHT DETECTION
CIRCUIT

Serial No. 10/736,340

Filed 15 December 2003

Group Art Unit: 2878

Examiner: Thanh X. Luu

I hereby certify that this correspondence was sent
by facsimile transmission to the United States
Patent and Trademark Office on the date set forth
below.

Valerie J. Richardson
 Valerie J. Richardson
May 2, 2006
 Date

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pre-Appeal Brief Request for Review

Applicants request review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is requested based on the following Arguments

*Arguments****Claim Rejections - 35 USC § 102***

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Riedel. Contrary to the Examiner's assertion, however, there is no teaching in Riedel with respect to a circuit which automatically changes the period of an integration signal to an integrating photosensor circuit in response to a determination that the photo signal produced by the photosensor circuit is in one of three distinct states (i.e., a no-signal, in-range, and saturated signal states) so as to result in the photo signal being in the in-range state and producing a corresponding ambient light signal, as required in accordance with the claimed invention. Rather, Riedel teaches the use of a photodetector in a system for determining the amount of ambient light transmitted through a

reagent and/or sample fluid on an analyte strip, and suggests periodic sampling and integration of the output of the photodetector, with an observation that longer integration times may be used for low ambient light levels and shorter integration times may be used for high ambient light levels in the fluid sample analyzer system. Note specifically, however, a "low" ambient light level does not necessarily imply a no-signal state, and a "high" ambient light level does not necessarily imply a saturated signal state. Note further that measuring transmission of light through a reagent or sample fluid does not necessarily produce an ambient light signal. The Examiner's finding that Riedel anticipates the present invention accordingly is in clear error, and review of this rejection is respectfully requested.

Claims 1, 2, 4 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Bechtel et al. (U.S. Patent 6,402,328). Contrary to the Examiner's assertions, however, there is no disclosure in Bechtel et al with respect to an automatic feedback type circuit for automatically increasing the period of the integration period signal of the integrating circuit when the photo signal is in a no-signal state and decreasing the period of the integration period signal when the photo signal is in a saturated state, so as to result in the photo signal being in the in-range state. Bechtel et al rather apparently teaches to employ a test control signal including a variety of pre-selected integration times (see, e.g., col. 8, lines 55+, control signal 70 with varying integration periods 76, 82, 88), and to simply ignore resulting signal pulses less than or greater than preset signal pulse durations. Thus, even if one or more of the pre-selected integration times were to be sufficiently short or sufficiently long so as to result in a no-signal or saturated state, there is no teaching to automatically change the subsequently employed integration time in response to such a determination so as to result in obtaining an in-range signal. The Examiner's finding that Bechtel et al anticipates the present invention accordingly is in clear error, and review of this rejection is respectfully requested.

The Examiner's further comments that nothing in the claims preclude the use of pre-selected integration times is simply not responsive to Applicants arguments that Bechtel et al fails to teach a circuit for automatically increasing the period of the integration period signal of the integrating circuit

when the photo signal is in a no-signal state and decreasing the period of the integration period signal when the photo signal is in a saturated state so as to result in the photo signal being in the in-range state.

The Examiner further comments Applicant's arguments that Bechtel et al does not enable as large a dynamic range as the presently claimed system is not persuasive as such language is not found in the claims. A closer review of Applicant's arguments, however, will illustrate that such argument is made with respect to such larger dynamic range being an inherent advantage of the "automatically increasing the period... and decreasing the period" claim requirement relative to the use of a limited number of pre-selected integration times as taught by Bechtel et al.

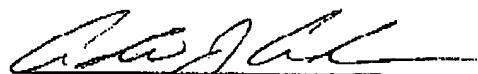
Claim Rejections - 35 USC 103

Claims 3-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Riedel. Claims 3, 5 and 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bechtel et al. As explained above, however, the Examiner's assertions with respect to the teachings of Riedel and Bechtel et al relative to the present claimed invention are in clear error. Thus, even if substitution of further features as proposed by the Examiner were to be made in Riedel or Bechtel et al for the purposes proposed by the Examiner, the present invention still would not be obtained and a *prima facie* case of obviousness accordingly has clearly not been established. Reconsideration of these rejections is accordingly respectfully requested.

Claims 12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Japanese publication of Toshiba (JP 2002-297096) in view of Bechtel et al. As explained above, however, the Examiner's assertions with respect to the teachings of Bechtel et al relative to the present claimed invention are in clear error. Thus, even if the light detector system of Bechtel were to be provided in the apparatus of Toshiba as proposed by the Examiner, the present invention display of claim 12 and method of controlling a display of claim 18 still would not be obtained, and a *prima facie* case of obviousness accordingly has not been established. Reconsideration of this rejection is accordingly respectfully requested.

The final rejection thus clearly is in error for at least the reasons asserted above, and a prompt and favorable action in response to this request is earnestly solicited.

Respectfully submitted,



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If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.